

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1597 ASHFIELD VALLEY TRUST, a Nevada
Trust; DAVID TOTH and SIRWAN TOTH,
Trustees,

Plaintiffs,

vs.

FEDERAL NATIONAL MORTGAGE
ASSOCIATION SYSTEM, *et al.*,

Defendants.

Case No. 2:14-cv-02123-JCM-GWF

REPORT AND
RECOMMENDATION

This matter is before the Court on Plaintiff 1597 Ashfield Valley Trust's ("Plaintiff") failure to retain new counsel. On November 8, 2016, the Court granted Plaintiff's counsel Patrick Kang, Esq.'s Motion to Withdraw as Counsel for Plaintiffs. *See Order* (ECF No. 128). However, the Court advised Plaintiff that a corporation or limited liability company may appear in federal court only through licensed counsel. *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). The Court further advised that the rationale for that rule applies equally to all artificial entities. *See Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 202, 113 S. Ct. 716, 721 (1993). Therefore, Plaintiff—a trust—could only appear through counsel. Plaintiff was given until November 29, 2016 to retain new counsel and advise the Court of the same. Plaintiff did not do so.

On December 8, 2016, the Court entered an Order to Show Cause (ECF No. 141), which required Plaintiff to show cause, in writing, no later than December 23, 2016, why sanctions should no be imposed for Plaintiff's failure to timely retain new counsel. Therein, Plaintiff was given notice that failing to timely respond would result in a recommendation to the District Judge that

1 Plaintiff's complaint be dismissed for violation of the Court's order. Again, Plaintiff failed to retain
2 new counsel, request an extension, or take any other action in the case. Accordingly,

3 **IT IS HEREBY RECOMMENDED** that Plaintiff 1597 Ashfield Valley Trust's Complaint
4 (ECF No. 1-1) be **dismissed** and default judgment on Defendants' counterclaims be entered against
5 Plaintiff 1597 Ashfield Valley Trust.

6 DATED this 5th day of January, 2017.

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9 GEORGE FOLEY, JR.
United States Magistrate Judge

10 **NOTICE**

11 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
12 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
13 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
14 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has
15 also held that (1) failure to file objections within the specified time and (2) failure to properly
16 address and brief the objectionable issues waives the right to appeal the District Court's order and/or
17 appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th
18 Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).